

AMENDED IN ASSEMBLY MAY 2, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 738**

**Introduced by Assembly Member Lowenthal**

February 22, 2001

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An act to add and repeal Sections 12207, 17058.16, and 23616 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 738, as amended, Lowenthal. Income and bank and corporation and insurance taxes: credit: community development corporations.

The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws. Existing insurance tax law allows insurers a credit for providing low-income housing, and requires the California Tax Credit Allocation Committee to allocate the credit according to specified guidelines.

This bill would, for taxable years beginning on or after January 1, 2002, and before January 1, 2010, create a credit against insurance tax, and under the Personal Income Tax Law and the Bank and Corporation Tax Law, equal to 50% of a contribution of ~~at least \$25,000~~, certified by the California Tax Credit Allocation Committee, that is made for any of certain purposes to a community development corporation. The amount of the credit would be limited to \$500,000 annually for each taxpayer. This bill would limit the total annual amount of credits that may be approved by the committee to ~~\$30,000,000~~ *the amount appropriated to fund the credit by the annual Budget Act*.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12207 is added to the Revenue and  
2 Taxation Code, to read:

3 12207. (a) For years beginning on or after January 1, 2002,  
4 and before January 1, 2010, there shall be allowed as a credit  
5 against the “tax,” as defined by Section 12201, an amount equal  
6 to 50 percent of a contribution, certified by the California Tax  
7 Credit Allocation Committee under paragraph (3) of subdivision  
8 (h), by a taxpayer to an eligible community development  
9 corporation for either of the following:

10 (1) The development, renovation, or expansion of a  
11 community facility that is located in a low-income geographic area  
12 and that primarily benefits low-income persons.

13 (2) The operation of programs that primarily benefit  
14 low-income persons.

15 (b) “Eligible community development corporation” means  
16 either of the following:

17 (1) For facility support, a nonprofit corporation, exempt from  
18 tax under Section 501(c)(3) of the Internal Revenue Code, that  
19 sponsors, develops, renovates, or expands a community facility  
20 that is located in a low-income geographic area and that primarily  
21 benefits low-income persons.

22 (2) For program support, a nonprofit corporation exempt from  
23 tax under Section 501(c)(3) of the Internal Revenue Code that  
24 operates programs that primarily benefit low-income persons and  
25 is certified by the United States Department of Housing and Urban  
26 Development as an eligible Community-Based Development  
27 Organization (CBDO). If the corporation is not a CBDO, it shall  
28 be certified by the California Tax Credit Allocation Committee to  
29 be substantially similar in purpose, function, and scope to a  
30 CBDO.

31 (c) “Eligible community development corporation” does not  
32 include a nonprofit corporation established or controlled by a  
33 taxpayer seeking a tax credit under this section in connection with  
34 a contribution to that nonprofit corporation. For purposes of this



1 section, “control” means ownership, directly or indirectly, of 50  
2 percent or more of the total combined voting power of all classes  
3 of stock or other voting interests of the eligible community  
4 development corporation entitled to vote, or 50 percent or more of  
5 the eligible community development corporation’s officers,  
6 directors, trustees, or key employees who are appointed by or are  
7 employees of the taxpayer.

8 (d) “Low-income persons or families” means those whose  
9 annual household income does not exceed 80 percent of the  
10 median for all households in the metropolitan area in which they  
11 reside, or for persons residing outside of metropolitan areas, the  
12 state, as determined and adjusted from time to time by the United  
13 States Department of Housing and Urban Development.

14 (e) “Low-income geographic area” means a census tract or  
15 other defined geographic area in which more than 50 percent of the  
16 households earn less than 80 percent of the median for all  
17 households in the metropolitan area or for persons residing outside  
18 a metropolitan area, the state, as determined and adjusted from  
19 time to time by the United States Department of Housing and  
20 Urban Development.

21 (f) “Community facility” means a facility where health care,  
22 child care, educational, cultural, or social services are provided.

23 (g) “Committee” means the California Tax Credit Allocation  
24 Committee as defined in Section 50199.7 of the Health and Safety  
25 Code.

26 (h) The committee shall do all of the following:

27 (1) Establish criteria, consistent with the requirements of this  
28 section, for the allocation of tax credits to eligible community  
29 development corporations.

30 (2) Accept applications, identify the taxpayer or taxpayers that  
31 will claim the credit, and allocate credits to eligible community  
32 development corporations.

33 (3) Issue credit certificates to taxpayers, upon receipt of the  
34 evidence specified in subdivision (i), that include certification as  
35 to the amount contributed by the taxpayer pursuant to subdivision  
36 (a) that qualifies for the tax credit.

37 (4) Obtain ~~the~~ *each* taxpayer’s taxpayer identification number,  
38 and each partner’s taxpayer identification number in the case of a  
39 partnership, for tax administration purposes.

(i) An eligible community development corporation that is allocated a tax credit pursuant to subdivision (h) shall provide to the committee evidence, satisfactory to the committee, of both of the following:

(1) Receipt of the contribution from the taxpayer identified in the application for the tax credit.

(2) If the contribution is for facility support pursuant to paragraph (1) of subdivision (b), evidence that construction has been initiated.

(j) The taxpayer shall retain for his or her records the certification issued pursuant to subdivision (h).

~~(k) The minimum annual contribution for which a tax credit may be certified pursuant to this section is twenty-five thousand dollars (\$25,000). The California Tax Credit Allocation~~

*(k) The California Tax Credit Allocation* Committee may establish, on an annual basis, ~~a~~ *the minimum and* maximum contribution level applicable to any application filed in that year. The aggregate credit certified in any year to one taxpayer may not exceed five hundred thousand dollars (\$500,000).

*(l)* In establishing criteria for the award of tax credit certificates under this section, the California Tax Credit Allocation Committee shall:

(1) Seek to encourage multiyear contribution commitments.

(2) Give preference to taxpayers who certify that their aggregate contributions to eligible community development corporations in the current calendar year will exceed their average contributions to eligible community development corporations in the prior three calendar years by an amount equal to, or greater than, the contribution identified in the current application for a tax credit certificate.

(3) Establish reasonable reporting requirements designed to allow the California Tax Credit Allocation Committee to determine whether goals and objectives set forth in the application for the tax credit certificate have been achieved.

*(4) Give preference to an application that proposes to use at least 50 percent of the subject contribution to improve the energy efficiency of a community facility.*

(m) No deduction is allowed as otherwise provided in this part for that portion of any contribution made for the taxable year that

1 is equal to the amount of the credit allowed under this section  
2 attributable to that contribution.

3 (n) This section does not prevent a taxpayer who receives a  
4 credit under this section from making an additional contribution,  
5 grant, or loan to or having any other business relationship with the  
6 same eligible community development corporation if the terms  
7 and conditions of that transaction or relationship are fully  
8 disclosed to the California Tax Credit Allocation Committee.

9 (o) If the credit allowed by this section exceeds the “tax,” the  
10 excess may be carried over to reduce the “tax” for the succeeding  
11 10 years.

12 (p) This section shall remain in effect only until December 1,  
13 2010, and as of that date is repealed, unless a later enacted statute,  
14 that is enacted before January 1, 2010, deletes or extends that date.

15 SEC. 2. Section 17058.16 is added to the Revenue and  
16 Taxation Code, to read:

17 17058.16. (a) For taxable years beginning on or after January  
18 1, 2002, and before January 1, 2010, there shall be allowed as a  
19 credit against the “net tax,” as defined in Section 17039, an  
20 amount equal to 50 percent of a contribution, certified by the  
21 California Tax Credit Allocation Committee under paragraph (3)  
22 of subdivision (h), by a taxpayer to an eligible community  
23 development corporation for either of the following:

24 (1) The development, renovation, or expansion of a  
25 community facility that is located in a low-income geographic area  
26 and that primarily benefits low-income persons.

27 (2) The operation of programs that primarily benefit  
28 low-income persons.

29 (b) “Eligible community development corporation” means  
30 either of the following:

31 (1) For facility support, a nonprofit corporation, exempt from  
32 tax under Section 501(c)(3) of the Internal Revenue Code, that  
33 sponsors, develops, renovates, or expands a community facility  
34 that is located in a low-income geographic area and that primarily  
35 benefits low-income persons.

36 (2) For program support, a nonprofit corporation exempt from  
37 tax under Section 501(c)(3) of the Internal Revenue Code that  
38 operates programs that primarily benefit low-income persons and  
39 is certified by the United States Department of Housing and Urban  
40 Development as an eligible Community-Based Development

1 Organization (CBDO). If the corporation is not a CBDO, it shall  
2 be certified by the California Tax Credit Allocation Committee to  
3 be substantially similar in purpose, function, and scope to a  
4 CBDO.

5 (c) “Eligible community development corporation” does not  
6 include a nonprofit corporation established or controlled by a  
7 taxpayer seeking a tax credit under this section in connection with  
8 a contribution to that nonprofit corporation. For purposes of this  
9 section, “control” means ownership, directly or indirectly, of 50  
10 percent or more of the total combined voting power of all classes  
11 of stock or other voting interests of the eligible community  
12 development corporation entitled to vote, or 50 percent or more of  
13 the eligible community development corporation’s officers,  
14 directors, trustees, or key employees who are appointed by or are  
15 employees of the taxpayer.

16 (d) “Low-income persons” means those whose annual  
17 household income does not exceed 80 percent of the median for all  
18 households in the metropolitan area in which they reside, or for  
19 persons residing outside of metropolitan areas, the state, as  
20 determined and adjusted from time to time by the United States  
21 Department of Housing and Urban Development.

22 (e) “Low-income geographic area” means a census tract or  
23 other defined geographic area in which more than 50 percent of the  
24 households earn less than 80 percent of the median for all  
25 households in the metropolitan area or for persons residing outside  
26 a metropolitan area, the state, as determined and adjusted from  
27 time to time by the United States Department of Housing and  
28 Urban Development.

29 (f) “Community facility” means a facility where health care,  
30 child care, educational, cultural, or social services are provided.

31 (g) “Committee” means the California Tax Credit Allocation  
32 Committee as defined in Section 50199.7 of the Health and Safety  
33 Code.

34 (h) The committee shall do all of the following:

35 (1) Establish criteria, consistent with the requirements of this  
36 section, for the allocation of tax credits to eligible community  
37 development corporations.

38 (2) Accept applications, identify the taxpayer or taxpayers that  
39 will claim the credit, and allocate credits to eligible community  
40 development corporations.

(3) Issue credit certificates to taxpayers, upon receipt of the evidence specified in subdivision (i), that include certification as to the amount contributed by the taxpayer pursuant to subdivision (a) that qualifies for the tax credit.

(4) Obtain ~~the~~ *each* taxpayer's taxpayer identification number, and each shareholder's taxpayer identification number in the case of an S corporation, for tax administration purposes.

(5) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the committee, containing the names, taxpayer identification numbers pursuant to paragraph (4), amount contributed, and total amount of credit certified to each taxpayer.

(i) An eligible community development corporation that is allocated a tax credit pursuant to subdivision (h) shall provide to the committee evidence, satisfactory to the committee, of both of the following:

(1) Receipt of the contribution from the taxpayer identified in the application for the tax credit.

(2) If the contribution is for facility support pursuant to paragraph (1) of subdivision (b), evidence that construction has been initiated.

(j) The taxpayer shall retain for his or her records the certification issued pursuant to subdivision (h) and make that certification available to the Franchise Tax Board upon request.

~~(k) The minimum annual contribution for which a tax credit may be certified pursuant to this section is twenty-five thousand dollars (\$25,000). The California Tax Credit Allocation~~

*(k) The California Tax Credit Allocation* Committee may establish, on an annual basis, ~~a~~ *the minimum and* maximum contribution level applicable to any application filed in that year. The aggregate credit certified in any taxable year to one taxpayer may not exceed five hundred thousand dollars (\$500,000).

*(l)* In establishing criteria for the award of tax credit certificates under this section, the California Tax Credit Allocation Committee shall:

(1) Seek to encourage multiyear contribution commitments.

(2) Give preference to taxpayers who certify that their aggregate contributions to eligible community development corporations in the current calendar year will exceed their average contributions to eligible community development corporations in



1 the prior three calendar years by an amount equal to, or greater  
2 than, the contribution identified in the current application for a tax  
3 credit certificate.

4 (3) Establish reasonable reporting requirements designed to  
5 allow the California Tax Credit Allocation Committee to  
6 determine whether goals and objectives set forth in the application  
7 for the tax credit certificate have been achieved.

8 (4) *Give preference to an application that proposes to use at*  
9 *least 50 percent of the subject contribution to improve the energy*  
10 *efficiency of a community facility.*

11 (m) No deduction is allowed as otherwise provided in this part  
12 for that portion of any contribution made for the taxable year that  
13 is equal to the amount of the credit allowed under this section  
14 attributable to that contribution.

15 (n) This section does not prevent a taxpayer who receives a  
16 credit under this section from making an additional contribution,  
17 grant, or loan to or having any other business relationship with the  
18 same eligible community development corporation if the terms  
19 and conditions of that transaction or relationship are fully  
20 disclosed to the California Tax Credit Allocation Committee.

21 (o) If the credit allowed by this section exceeds the “net tax,”  
22 the excess may be carried over to reduce the “net tax” for the  
23 succeeding 10 years.

24 (p) This section shall remain in effect only until December 1,  
25 2010, and as of that date is repealed, unless a later enacted statute,  
26 that is enacted before January 1, 2010, deletes or extends that date.

27 SEC. 3. Section 23616 is added to the Revenue and Taxation  
28 Code, to read:

29 23616. (a) For taxable years beginning on or after January 1,  
30 2002, and before January 1, 2010, there shall be allowed as a credit  
31 against the “tax,” as defined in Section 23036, an amount equal  
32 to 50 percent of a contribution allocated a tax credit by the  
33 California Tax Credit Allocation Committee under paragraph (3)  
34 of subdivision (h), by a taxpayer to an eligible community  
35 development corporation for either of the following:

36 (1) The development, renovation or expansion of a community  
37 facility that is located in a low-income geographic area and that  
38 primarily benefits low-income persons.

39 (2) The operation of programs that primarily benefit  
40 low-income persons.



1 (b) “Eligible community development corporation” means  
2 either of the following:

3 (1) For facility support, a nonprofit corporation, exempt from  
4 tax pursuant to Section 501(c)(3) of the Internal Revenue Code,  
5 that sponsors, develops, renovates, or expands a community  
6 facility that is located in a low-income geographic area and that  
7 primarily benefits low-income persons.

8 (2) For program support, a nonprofit corporation exempt from  
9 tax pursuant to Section 501(c)(3) of the Internal Revenue Code  
10 that operates programs that primarily benefit low-income persons  
11 and is certified by the United States Department of Housing and  
12 Urban Development as an eligible Community-Based  
13 Development Organization (CBDO). If the organization is not a  
14 CBDO, it shall be certified by the California Tax Credit Allocation  
15 Committee to be substantially similar in purpose, function, and  
16 scope to a CBDO.

17 (c) “Eligible community development corporation” does not  
18 include a nonprofit corporation established or controlled by a  
19 taxpayer seeking a tax credit under this section in connection with  
20 a contribution to that nonprofit corporation. For purposes of this  
21 section, “control” means ownership, directly or indirectly, of 50  
22 percent or more of the total combined voting power of all classes  
23 of stock or other voting interests of the eligible community  
24 development corporation entitled to vote or 50 percent or more of  
25 the eligible community development corporation’s officers,  
26 directors, trustees, or key employees who are appointed by or  
27 employees of the taxpayer.

28 (d) “Low-income persons” means those whose annual  
29 household income does not exceed 80 percent of the median for all  
30 households in the metropolitan area in which they reside, or for  
31 persons residing outside of metropolitan areas, the state, as  
32 determined and adjusted from time to time by the United States  
33 Department of Housing and Urban Development.

34 (e) “Low-income geographic area” means a census tract or  
35 other defined geographic area in which more than 50 percent of the  
36 households earn less than 80 percent of the median for all  
37 households in the metropolitan area or for persons residing outside  
38 a metropolitan area, the state, as determined and adjusted from  
39 time to time by the United States Department of Housing and  
40 Urban Development.

1 (f) “Community facility” means a facility where health care,  
2 child care, educational, cultural, or social services are provided.

3 (g) “Committee” means the California Tax Credit Allocation  
4 Committee as defined in Section 50199.7 of the Health and Safety  
5 Code.

6 (h) The committee shall do all of the following:

7 (1) Establish criteria, consistent with the requirements of this  
8 section, for the allocation of tax credits to eligible community  
9 development corporations.

10 (2) Accept applications, identify the taxpayer or taxpayers that  
11 will claim the credit, and allocate credits to eligible community  
12 development corporations.

13 (3) Issue credit certificates to taxpayers, upon receipt of the  
14 evidence specified in subdivision (i), that include certification as  
15 to the amount contributed by the taxpayer pursuant to subdivision  
16 (a) that qualifies for the tax credit.

17 (4) Obtain ~~the~~ *each* taxpayer’s taxpayer identification number,  
18 and each partner’s taxpayer identification number in the case of a  
19 partnership, for tax administration purposes.

20 (5) Provide an annual listing to the Franchise Tax Board, in the  
21 form and manner agreed upon by the Franchise Tax Board and the  
22 committee, containing the names, taxpayer identification numbers  
23 pursuant to paragraph (4), amount contributed, and total amount  
24 of credit certified to each taxpayer.

25 (i) An eligible community development corporation that is  
26 allocated a tax credit pursuant to subdivision (h) shall provide to  
27 the committee evidence, satisfactory to the committee, of both of  
28 the following:

29 (1) Receipt of the contribution from the taxpayer identified in  
30 the application for the tax credit.

31 (2) If the contribution is for facility support pursuant to  
32 paragraph (1) of subdivision (b), evidence that construction has  
33 been initiated.

34 (j) The taxpayer shall retain for its records the certification  
35 issued pursuant to subdivision (h) and make that certification  
36 available to the Franchise Tax Board upon request.

37 ~~(k) The minimum annual contribution for which a tax credit~~  
38 ~~may be certified pursuant to this section is twenty-five thousand~~  
39 ~~dollars (\$25,000). The California Tax Credit Allocation~~

1     (k) *The California Tax Credit Allocation* Committee may  
2 establish, on an annual basis, ~~a~~ *the minimum and* maximum  
3 contribution level applicable to any application filed in that year.  
4 The aggregate credit certified in any taxable year to one taxpayer  
5 may not exceed five hundred thousand dollars (\$500,000).

6     (l) In establishing criteria for the award of tax credit certificates  
7 under this section, the California Tax Credit Allocation Committee  
8 shall:

9         (1) Seek to encourage multiyear contribution commitments.

10        (2) Give preference to taxpayers who certify that their  
11 aggregate contributions to eligible community development  
12 corporations in the current calendar year will exceed their average  
13 contributions to eligible community development corporations in  
14 the prior three calendar years by an amount equal to, or greater  
15 than, the contribution identified in the current application for a tax  
16 credit certificate.

17        (3) Establish reasonable reporting requirements designed to  
18 allow the California Tax Credit Allocation Committee to  
19 determine whether goals and objectives set forth in the application  
20 for the tax credit certificate have been achieved.

21        (4) *Give preference to an application that proposes to use at*  
22 *least 50 percent of the subject contribution to improve the energy*  
23 *efficiency of a community facility.*

24     (m) No deduction is allowed as otherwise provided in this part  
25 for that portion of any contribution paid or incurred for the taxable  
26 year that is equal to the amount of the credit allowed under this  
27 section attributable to that contribution.

28     (n) This section does not prevent a taxpayer who receives a  
29 credit under this section from making an additional contribution,  
30 grant, or loan to or having any other business relationship with the  
31 same eligible community development corporation if the terms  
32 and conditions of that transaction or relationship are fully  
33 disclosed to the California Tax Credit Allocation Committee.

34     (o) If the credit allowed by this section exceeds the “tax,” the  
35 excess may be carried over to reduce the “tax” for the succeeding  
36 10 years.

37     (p) This section shall remain in effect only until December 1,  
38 2010, and as of that date is repealed, unless a later enacted statute,  
39 that is enacted before January 1, 2010, deletes or extends that date.

1 SEC. 4. The aggregate community investment tax credit  
2 allocated annually by the California Tax Credit Allocation  
3 Committee pursuant to Sections 12207, 17058.16, and 23616 of  
4 the Revenue and Taxation Code, may not exceed ~~thirty million~~  
5 ~~dollars (\$30,000,000)~~ *the amount appropriated to fund the credit*  
6 *by the annual Budget Act.*

7 SEC. 5. On or before December 31, 2004, and for each year  
8 thereafter that the credit is in effect, the Treasurer shall prepare and  
9 submit to the Legislature a report on the following:

10 (a) The projects and programs that have been allocated credits  
11 pursuant to this act.

12 (b) The extent to which each project or program has achieved  
13 goals and objectives identified in the application for tax credits.

14 (c) The level of demand for the credit, including  
15 recommendations regarding total funding for the credit. The  
16 reports shall be conducted from the Treasurer's existing resources.

17 SEC. 6. This act provides for a tax levy within the meaning of  
18 Article IV of the Constitution and shall go into immediate effect.

